

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

)
CENTOCOR ORTHO BIOTECH, INC. and)
NEW YORK UNIVERSITY,)

)
)
Plaintiffs and Counterclaim-)
Defendants,)

v.)

)
ABBOTT LABORATORIES, ABBOTT)
BIORESEARCH CENTER, INC. and)
ABBOTT BIOTECHNOLOGY LTD.,)

)
Defendants and)
Counterclaim-Plaintiffs.)

Civil Action No. 2:07CV139

JURY TRIAL DEMANDED

**ABBOTT'S OPPOSITION TO PLAINTIFFS' MOTION TO BIFURCATE TRIAL OF
JURY ISSUES FROM TRIAL OF EQUITABLE ISSUES**

Defendants Abbott Laboratories, Abbott Bioresearch Center, Inc. and Abbott Biotechnology Ltd. (collectively "Abbott") do not dispute the fact that the defenses of prosecution laches and inequitable conduct are equitable in nature and should be heard by the Court outside of the presence of the jury. To the extent that is what Plaintiffs are requesting in their motion, Abbott has no objection.

Abbott, however, believes it is appropriate to discuss the timing and schedule for presentation of evidence on Abbott's equitable defenses during the pre-trial conference. To the extent possible and consistent with the Court's availability, it may be most efficient to have these issues tried during the same time period that has been set for the jury trial, either after the jury has been dismissed for the day or when the jury is deliberating.

Dated: April 22, 2009

By: /s/ David J. Beck

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CERTIFICATE OF SERVICE

I hereby certify that counsel of record, who are deemed to have consented to electronic service in the above-referenced case, are being served this 22nd day of April, 2009 with a copy of the above-document via the court's CM/ECF System per Local Rule CV-5(a)(3).

/s/ Michael E. Richardson

Michael E. Richardson